

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

COLLINS SHIVERE,

Plaintiff,

-vs-

AUTO BUYING NETWORK
and KURTIS HASKINS,

Defendants.

:

Case No. 3:05-cv-096

:

District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

:

REPORT AND RECOMMENDATIONS

This case is before the Court on Plaintiff's Motion for Default Judgment (Doc. No. 16). Plaintiff was directed to file said Motion when Defendants failed to appear for pretrial conference and failed to participate in preparation of the required Fed. R. Civ. P. 26(f) report.

The Motion for Default Judgment was served on Defendants at the address they have given the Court. It was returned to Plaintiff marked "Return to Sender," apparently in Defendant Haskin's handwriting and Defendants have filed no opposition to the Motion for Default Judgment. The docket reflects that, in addition to failing to appear for the pretrial conference and respond to the Motion, Defendants have also failed to answer Plaintiff's Second Amended Complaint.

Accordingly, it is respectfully recommended that default judgment as to liability be entered in favor of the Plaintiff and against the Defendants and that this case be set for hearing on Plaintiff's Motion for Damages.

February 11, 2006.

s/ **Michael R. Merz**
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).